

In re Application of: Peter ASSAF et al
Serial No.: 10/555,664
Filed: November 4, 2005
Office Action Mailing Date: August 16, 2010

Examiner: Sun Jae Y. Loewe
Group Art Unit: 1626
Attorney Docket: 30724
Confirmation No.: 9895

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 6, 17 and **32-83** are pending in this case. It is noted that claims 76-83 have been added in Applicant's response to the previous Office Action and have not been included in the Examiner's summary of the Office Action, not in any of the Examiner's rejections. Claims 6, 17, 32, 33 and 65-75 have been rejected under 35 U.S.C. 102(e) and on the ground of non-statutory obviousness-type double patenting.

Response to Amendment

The Examiner has stated that the amendments to the claims filed in response to an Office Action dated December 8, 2009, have obviated the 35 U.S.C. 102 and 103 rejections presented therein, and that the full scope of the claims have been searched and examined.

35 U.S.C. § 102(e) Rejection

The Examiner has stated that claims 6, 17, 32, 33 and 65-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Assaf (WO 2005/105065). The Examiner's rejection is respectfully traversed.

WO 2005/105065 is the publication number of PCT/IL05/00481. As would be appreciated by the Examiner, and is recorded on the publication of the instant application, the instant application is a National Phase filing of PCT/IL05/00481.

Accordingly, it is submitted that WO 2005/105065 cannot be regarded as prior art to the instant application.

Applicant respectfully requests withdrawal of the 35 U.S.C. 102(e) rejection.

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Double Patenting

The Examiner has stated that claims 6, 17, 32, 33 and 65-75 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7,332,513.

As noted immediately under "Remarks" hereinabove, it is noted that the Examiner has failed to include claims 76-83, presented in Applicant's response to the previous Office Action.

Claims 76-83 all depend, directly or indirectly from claim 32, which is rejected herewith.

Applicant therefore assumes that, if were included, these claims would have been also rejected by the Examiner on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7,332,513.

Accordingly, Applicant hereby submits a terminal Disclaimer for all of the pending claims, namely, claims 6, 17 and 32-83, thereby overcoming the Examiner's rejection.

Without acquiescing to the Examiner's basis for the rejections, Applicants provide herewith a terminal disclaimer, which disclaims any excess term relative to U.S. Patent No. 7,332,513. It is respectfully submitted that "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870 (Fed. Cir. 1991).

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In view of the above amendments and remarks it is respectfully submitted that claims 6, 17 and 32-83 are now in condition for allowance. A prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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Date: November 16, 2010

Encl.:

- Terminal Disclaimer